

FW/2164

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN THE MATTER OF: Itzhak Shoher

SERIAL NO.: 09/729362

FILED: December, 5, 2000

GROUP: 2164

EXAMINER: RIMELL, SAMUEL

FOR: Portable Device and System etc.

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181**

Office of Initial Patent Examination  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**MAIL STOP: Office of Initial Patent Examination**

S I R:

Applicant respectfully petitions to withdraw the holding of abandonment of the above application as indicated in the Notice of Abandonment dated May 31, 2006, a copy of which is attached hereto. The undersigned practitioner, as the attorney of record, makes the following statement in support of this Petition:

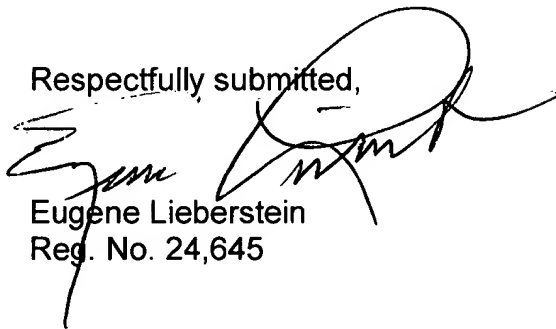
I, Eugene Lieberstein, hereby state that Applicant filed a Request For Continued Examination (RCE) on February 16, 2006 in response to the advisory action dated February 9, 2006.

A copy of the return postcard from the US Patent Office stamped February 16, 2006 along with a copy of the check forwarded with the RCE and a copy of the advisory action is attached hereto. Clearly, the US Patent Office received the RCE

request for continued examination timely and well before the expiration of the statutory time period.

Accordingly, it is respectfully requested that this petition to withdraw the abandonment be granted and the present application revived.

Respectfully submitted,

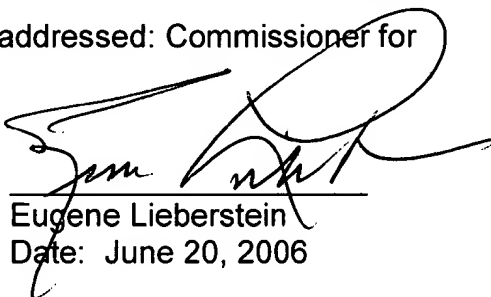


Eugene Lieberstein  
Reg. No. 24,645

2151 Long Ridge Road  
Stamford Connecticut 06903

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited today with the U.S. Postal Service as first class mail in an envelope addressed: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450



Eugene Lieberstein  
Date: June 20, 2006



# UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,362	12/05/2000	Itzhak Shoher	SHO-2000-4	3707

7590 05/31/2006  
EUGENE LIEBERSTEIN  
2151 LONG RIDGE ROAD  
STAMFORD, CT 06903



EXAMINER	
RIMELL, SAMUEL G	
ART UNIT	PAPER NUMBER
2164	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



# **Notice of Abandonment**

Application No.

09/729,362

Examiner

Sam Rimell

Applicant(s)

SHOHER, ITZHAK

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--


This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on September 14, 2005.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☒ A proposed reply was received on 23 January 2006, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.

The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Final rejection was mailed September 14, 2005. A proposed reply was submitted January 23, 2006, but was denied entry by the advisory action of February 9, 2006. Statutory period expired on March 14, 2006. Since no evidence of additional replies prior to March 14, 2006, application is abandoned.

  
Sam Rimell  
Primary Examiner  
Art Unit: 2164

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



Attached hereto is an RCE for  
US Patent Application Filed Dec. 5, 2000  
Serial NO. 08/729,362. This  
RCE is being filed under 37CFR  
1.114 with an attached check  
covering the RCE fee under  
37CFR 1.17(e) for a ~~substantive~~  
cost for an additional ~~two~~ months  
extension of time.  
Kindly stamp this case with  
the date of receipt and return  
to Sender.  
Respectfully  
E. J. J. J.





ATTACHED 12/15/06  
IS Payment A Contribution  
Serial NO. 08/729,362 THIS  
RCE is being filed under 37CFR  
1.114 with the attached check  
covering the RCE fee under 37CFR  
1.170 for a second action  
37CFR 1.170 for a second action  
can also be obtained  
attaching a copy of the  
check to the RCE fee  
to send to the  
USPTO

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08/729,362 RCE

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2/14/06

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,362	12/05/2000	Itzhak Shoher	SHO-2000-4	3707

7590 02/09/2006  
EUGENE LIEBERSTEIN  
2151 LONG RIDGE ROAD  
STAMFORD, CT 06903



EXAMINER

RIMELL, SAMUEL G

ART UNIT PAPER NUMBER

2164

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/729,362

Examiner

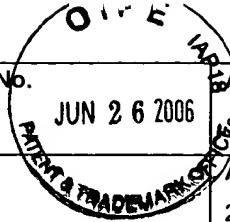
Sam Rimell

Applicant(s)

SHOHER, ITZHAK

Art Unit

2164



**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

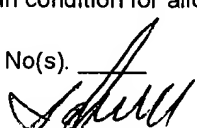
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 6-7.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
Sam Rimell  
Primary Examiner  
Art Unit: 2164